

AMENDMENTS TO THE DRAWINGS

The attached sheet of drawings includes changes to Fig. 2. This sheet replaces the original sheet including Fig. 2. Fig. 2 has been amended to conform more clearly to its corresponding detailed description.

Attachment: Replacement Sheet

REMARKS

Claims 1-15 are pending in the application.

Claims 1-5 stand rejected.

Claims 6-15 are withdrawn from consideration.

Claims 6-15 have been cancelled.

Claim 1 been amended.

Phone Interview – February 23, 2005

The undersigned wishes to acknowledge the telephone interview conducted on February 23, 2005, and to thank Examiner Rudy for his insight and for affording the undersigned an opportunity to discuss Applicants' claimed invention. While no agreement was reached during the interview, the undersigned believes this paper is in harmony with the positions expressed during the interview. Applicants believe the amendments to the drawings are sufficient to overcome the objections to the drawings and the amendments to the specification are sufficient to overcome the rejections under 35 U.S.C. § 112 first paragraph.

Drawings

The drawings are objected to under 37 CFR 1.83(a) as not showing every feature of the invention specified in the claims. The drawings have been amended to address the Examiner's concerns.

Rejection of Claims under 35 U.S.C. §112

Claims 1-5 stand rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The specification has been amended to address the Examiner's concerns.

Applicants also note that in the Advisory Action, the Examiner states, "Regarding the 35 U.S.C. 112 rejection, Applicant's added subject matter is not clear regarding the uncancelable level." Applicants respectfully submit that the response, filed December 29, 2004, to the Final Office action did not add subject matter.

Rejection of Claims under 35 U.S.C. §103

Claims 1-5 stand rejected under 35 U.S.C. §103(a) as being anticipated by Dietrich et al., U.S. Patent No. 5,630,070 (Dietrich). Applicants respectfully traverse this rejection for the reasons (reprinted below) cited in the response to the Final Office action.

Applicants respectfully submit that the claimed invention is not made obvious by Dietrich, either taken alone or in permissible combination with other references or skill in the art at the time of invention. As an initial matter, Applicants respectfully submit that the rejection lacks the requisite clarity. The Court of Appeals for the Federal Circuit has set forth requirement for rejections based on 35 U.S.C §103, which Applicants respectfully submit have not been met in at least the rejection of independent claim 1. "To reject claims in an application under section 103, an examiner must show an un rebutted prima facie case of obviousness. In the absence of a proper prima facie case of obviousness, an applicant who complies with the other statutory

requirements is entitled to a patent.” *In re Rouffet*, 149 F.3d 1350, 1355, 47 USPQ2d 1453, 1456 (Fed. Cir 1998) (citations omitted). Applicants respectfully submit that the rejection fails to meet the requirements set forth, as the rejection is not clear as to the elements of Dietrich that correspond to the claimed elements. In fact, no specific citation whatsoever of section of or elements disclosed in Dietrich, on which claim 1 might read, are provided. Applicant therefore respectfully requests clarification of the rejection as to the correspondence between the elements of Dietrich and those of the claimed invention, as claimed in claim 1, be demonstrated. Nevertheless, Applicants have made every attempt to respond to the rejections recited in the Office Action.

As to the rejection of claim 1, Dietrich fails to teach a variety of elements of the claimed invention. The Office Action notes that Dietrich fails to disclose an uncancelable level for each component of the product. This means that Dietrich fails to disclose “defining an uncancelable level for each of the components, each of the uncancelable levels defining a quantity of the each of the components below which the quantity of the each of the components cannot be liquidated without incurring a charge.” Failing to disclose an uncancelable level also means that Dietrich fails to disclose “assuming that a selected one of the components is available at least at an uncancelable level of the uncancelable levels corresponding to the selected one of the components” and “computing the expected component surplus for the selected component using a mean production for the product, the uncancelable level and the vector of connect rates.” Moreover, Dietrich fails to disclose that the computing of such quantities are performed using a computer, as recited by amended claim 1.

Furthermore, Applicants are unable to find taught, suggested or shown in Dietrich a vector of connect rates for the components. The vector of connect rates for a component is used in the present invention to compute the expected number of erodible components. (specification,

page 6, lines 7-8). In contrast, Dietrich focuses on determining the optimum number of end components in accordance with a linear programming optimization algorithm. Thus, Dietrich is not concerned with finding an expected number of erodible components and could not be expected to suggest the use of vector connect rates and uncancelable levels in the computation of an expected number of erodible components.

With respect to uncancelable levels being “well known” for use in estimating an expected component surplus, Applicants respectfully request that the Examiner provide an affidavit as to the personal knowledge relied on within the meaning of MPEP §2144.03 and 37 C.F.R. §1.107, or designate a reference or particular parts of the cited references and the pertinence of each reference in support of the rejection as required by 37 C.F.R. 1.106(b), which provides: “When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.”

In conclusion, it is unclear which, if any, of the limitations of claim 1 are taught by Dietrich. Furthermore, the deficiencies of Dietrich can not be remedied by looking to the ordinary skill in the art because the elements of the claimed invention that Dietrich fails to disclose are not well known in the art. Applicants also submit that even if the elements not disclosed by Dietrich were well known in the art, “implementing common knowledge information in a product production system” is not adequate motivation to combine Dietrich with the relevant skill in the art. Thus, the Office Action fails to establish a prima facie case of obviousness.

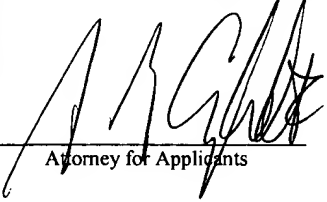
In the Advisory Action, the Examiner responds to the foregoing arguments by stating, “the remarks have been reviewed, but are not convincing.” Applicants respectfully request reconsideration of the foregoing arguments. Furthermore, in column 3, lines 47-56, Dietrich states, “The invention is directed to the situation in which there is insufficient inventory of one or more of the materials, and possibly a lack of the requisite number of one or more of the resources, needed to accomplish the production run. In this situation, the constraints of inventory restrict the manufacturing process such that only a fraction of the desired numbers of the various end products can be produced. This forces the manufacturer to make a decision with respect to the allocation of the available material and resources to provide the optimum number of each end product.” Dietrich is focused on handling the situations where there is an inventory shortage, and therefore could not be expected to “compute an expected component surplus” because an inventory shortage indicates the absence of an inventory surplus.

Applicant therefore respectfully submits that claim 1 clearly distinguishes over Dietrich, taken alone or in permissible combination with the knowledge of one having ordinary skill in the art. Applicant submits that these arguments apply with equal force to independent claims 6 and 11. Applicant therefore respectfully submits that independent claims 1, 6 and 11, as well as claims 2-5, 7-10 and 12-15 which depend on claims 1, 6 and 11, are also allowable for at least the foregoing reasons. Applicant therefore respectfully requests withdrawal of the rejections based upon 35 U.S.C. §103(a). Accordingly, Applicant respectfully submits that claims 1-15 are in condition for allowance.

CONCLUSION

In view of the amendments and remarks set forth herein, the application is believed to be in condition for allowance and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is invited to telephone the undersigned at 512-439-5084.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on February 28, 2005.

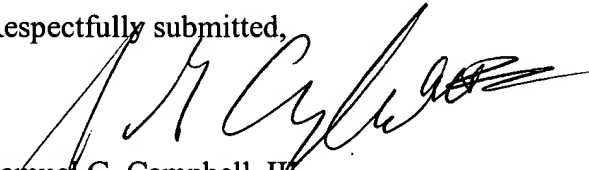


Attorney for Applicants

2/28/05

Date of Signature

Respectfully submitted,


Samuel G. Campbell, III
Attorney for Applicants
Reg. No. 42,381
Telephone: (512) 439-5084
Facsimile: (512) 439-5099